

August 9, 2007

A Regular Meeting of the Zoning Board of Appeals of the Town of Lancaster, Erie County, New York, was held at the Lancaster Town Hall, 21 Central Avenue, Lancaster, New York, on the 9th day of August, 2007 at 8:00 P.M., and there were

PRESENT: JOHN ABRAHAM, JR., MEMBER

 JAMES PERRY, MEMBER

 RICHARD QUINN, MEMBER

 ARLIE SCHWAN, MEMBER

 ROBERT THILL, MEMBER

 JEFFREY LEHRBACH, CHAIRMAN

ABSENT: WILLIAM MARYNIEWSKI, MEMBER

ALSO PRESENT: JOHANNA M. COLEMAN, TOWN CLERK

 JOHN DUDZIAK, DEPUTY TOWN ATTORNEY

 JEFFREY H. SIMME, BUILDING INSPECTOR

The Affidavits of Publication and Posting of this Public Hearing are on file and a copy of the Legal Notice has been posted.

PETITION OF JAMES DISTIN:

The petition of James Distin, 31 Summerfield Drive, Lancaster, New York 14086 for one [1] variance for the purpose of erecting a four [4] foot high fence in a required open space area on premises owned by the petitioner at 31 Summerfield Drive, Lancaster, New York, to wit:

At the request of the applicant, this petition was withdrawn.

PETITION OF DATO DEVELOPMENT, LLC:

THE 1st CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of DATO Development, LLC, S5540 Southwestern Boulevard, Hamburg, New York 14075, Jeffrey Palumbo, Esq. as agent, 9276 Main Street, Clarence, New York 14031, for six (6) variances for the purpose of constructing 48 townhouse units on property owned by the petitioner located at Forestream Village on Slate Bottom Drive, A/K/A Brookside Village Townhomes and identified on the tax map as Section Block Lot numbers 126.54-1-1 through 126.54-1-48 and 126.54-1-55.21 in the Town of Lancaster, New York, to wit:

- A. A variance from the requirements of Chapter 50, Zoning, Section 12A. of the Code of the Town of Lancaster. The property upon which this variance is sought is 4.16 acres in size. The petitioner's plans call for the construction of 48 dwelling units upon this property.

Chapter 50, Zoning, Section 12A. of the Code of the Town of Lancaster permits a maximum density of 8 units per gross acre where public sewers are available. The petitioner, therefore, requests a variance for the construction of 15 units in excess of the permitted 33 units.

- B. A variance from the requirements of Chapter 50, Zoning, Section 12C.(1)(e) of the Code of the Town of Lancaster. The petitioner's plans call for 112,536 square feet land coverage which equates to 62% land coverage.

Chapter 50, Zoning, Section 12C.(1)(e) of the Code of the Town of Lancaster permits a maximum land coverage of 35%, which equates to 63,423 square feet. The petitioner, therefore, requests a land coverage variance of 49,113 square feet.

- C. A variance from the requirements of Chapter 50, Zoning, Section 12C.(1)(g) of the Code of the Town of Lancaster. The petitioner's plans call for open space/land area of 68,674 square feet.

Chapter 50, Zoning, Section 12C.(1)(g) of the Code of the Town of Lancaster requires that the minimum gross land area to be devoted to attached units excluding the area of public streets on the perimeter of that area shall be equal to the number of dwelling units, 48, times 4,300 square feet, which equates to 206,400 square feet. The petitioner, therefore, requests a 137,726 square foot open space/land area variance.

- D. A variance from the requirements of Chapter 50, Zoning, Section 12C.(1)(b)[2] of the Code of the Town of Lancaster. The petitioner's plans call for a 19 foot rear yard set back for 5 of the buildings, namely clusters #19, #20, #21, #22 and #23.

Chapter 50, Zoning, Section 12C.(1)(b)[2] of the Code of the Town of Lancaster requires a 40 foot rear yard set back. The petitioner, therefore, requests a 21 foot rear yard set back variance.

- E. A variance from the requirements of Chapter 50, Zoning, Section 12C.(1)(b)[2] of the Code of the Town of Lancaster. The petitioner's plan calls for an interior side yard set back of 18 feet between clusters #19 and #20 and between clusters #20 and #21.

Chapter 50, Zoning, Section 12C.(1)(b)[2] of the Code of the Town of Lancaster requires a 40 foot interior side yard set back between buildings. The petitioner, therefore, requests a 22 foot side yard set back variance between buildings, namely between clusters #19 and #20 and between clusters #20 and #21.

- F. A variance from the requirements of Chapter 50, Zoning, Section 12C.(1)(b)[2] of the Code of the Town of Lancaster. The petitioner's plans call for a building, namely cluster #24, to have a west side yard set back of 37.22 feet.

Chapter 50, Zoning, Section 12C.(1)(b)[2] of the Code of Lancaster requires a side yard set back of 40 feet. The petitioner, therefore, requests a 2.78 foot west side yard set back variance for cluster #24.

The Clerk presented and entered into evidence the following items:

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

Copy of a letter notifying the Erie County Department of Environment and Planning of the time and place of this public hearing.

Copy of a letter notifying Mary Holtz, Cheektowaga Town Clerk of the time and place of this public hearing.

Copy of a letter notifying Patricia A. King, Elma Town Clerk of the time and place of this public hearing.

Copy of a letter notifying Carl Bishara, New York State Department of Transportation of the time and place of this public hearing.

Copy of a letter dated August 9, 2007 and received August 9, 2007 from the petitioner's attorney requesting an adjournment of the hearing.

IN THE MATTER OF THE PETITION OF DATO DEVELOPMENT LLC

THE FOLLOWING RESOLUTION WAS OFFERED
BY MR. LEHRBACH, WHO MOVED ITS
ADOPTION, SECONDED BY MR. THILL
TO WIT:

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster, with the concurrence of the petitioner, agrees that an adjournment of this hearing is in the best interest of both the residents of the Town of Lancaster and the petitioner and will provide all parties further opportunity to discuss a possible compromise to the current situation;

**NOW, THEREFORE, BE IT
RESOLVED** that this hearing be adjourned to a future meeting date, and

**BE IT FURTHER
RESOLVED** that the petitioner or his attorney notify the Town Clerk in writing of his desire to be placed on the agenda of the Zoning Board of Appeals of the Town of Lancaster.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. ABRAHAM	VOTED YES
MR. MARYNIEWSKI	WAS ABSENT
MR. PERRY	VOTED YES
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. LEHRBACH	VOTED YES

The resolution to adjourn this case was thereupon adopted.

August 9, 2007

PETITION OF ANNA & DAVID ZANIEWSKI

THE 2nd CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of Anna and David Zaniewski, 721 Aurora Street, Lancaster, New York 14086 for one [1] variance for the purpose of erecting a four [4] foot high fence in a required open space area on premises owned by the petitioners at 721 Aurora Street, Lancaster, New York, to wit:

A variance from the requirements of Chapter 50, Zoning, Section 35C. of the Code of the Town of Lancaster. The premises upon which this variance is sought is a corner lot fronting on Running Brook Drive with an exterior side yard [considered a front yard equivalent] fronting on Aurora Street. The petitioners propose to erect a four [4] foot high fence within the required open space area of the exterior side yard fronting on Aurora Street.

Chapter 50, Zoning, Section 35C. of the Code of the Town of Lancaster limits the height of a fence or wall extending into a front yard or an exterior side yard [considered a front yard equivalent] to three [3] feet in height. The petitioners, therefore, request a one [1] foot fence height variance.

The Clerk presented and entered into evidence the following items:

Duly executed petition of the applicants with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioners of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

Copy of a letter notifying the Erie County Department of Environment and Planning of the time and place of this public hearing.

PERSONS ADDRESSING THE BOARD

David Zaniewski, petitioner 721 Aurora Street Lancaster, New York 14086	Proponent
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Anna Zaniewski, petitioner 721 Aurora Street Lancaster, New York 14086	Proponent
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IN THE MATTER OF THE PETITION OF ANNA & DAVID ZANIEWSKI

THE FOLLOWING RESOLUTION WAS OFFERED
BY MR. LEHRBACH, WHO MOVED ITS
ADOPTION, SECONDED BY MR. QUINN
TO WIT:

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Anna and David Zaniewski and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 9th day of August 2007, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

WHEREAS, the applicants are the present owners of the premises in question.

WHEREAS, the property for which the applicants are petitioning is within a Residential District 1, (R-1) as shown on the Zoning Map of the Town of Lancaster.

That the Erie County Department of Environment and Planning commented on the proposed zoning action as follows:

"No recommendation; proposed action has been reviewed and determined to be of local concern."

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That the benefit sought by the applicants cannot be achieved by some other method, feasible for the applicants to pursue, other than the area variance relief sought.

That the requested area variance relief is not substantial.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self created but not to the extent necessary to preclude the granting of the area variance relief sought.

That this board has taken into consideration the benefit to the applicants if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

That within the intent and purposes of this ordinance the variance relief sought, if granted, is the minimum variance necessary to afford relief.

That such fence will not unduly shut out light or air to adjoining properties.

That such fence will not create a fire hazard by reason of its construction or location.

NOW, THEREFORE, BE IT

RESOLVED that based upon these findings, the relief sought be and is hereby **GRANTED** subject to the following conditions which in the opinion of this board are appropriate conditions to minimize adverse effects on the character of the surrounding area and to safeguard the public health, safety, convenience and general welfare:

- that the variance relief granted here is specifically granted for an open balustrade fence that allows air and light to pass between the vertical balustrades
- any repair or replacement of the fence for which this variance is granted cannot diminish the open space area between the balustrades and reduce the amount of air and light that passes between the balustrades

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. ABRAHAM	VOTED YES
MR. MARYNIEWSKI	WAS ABSENT
MR. PERRY	VOTED YES
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. LEHRBACH	VOTED YES

The resolution granting the variance was thereupon **ADOPTED**.

August 9, 2007

PETITION OF PAUL SAFE:

THE 3rd CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of Paul Safe, 3490 Bowen Road, Lancaster, New York 14086 for one [1] variance for the purpose of constructing a 1,440 square foot detached garage on premises owned by the petitioner at 3490 Bowen Road, Lancaster New York, to wit:

A variance from the requirements of Chapter 50, Zoning, Section 9D.(4) of the Code of the Town of Lancaster. The area of the proposed accessory structure is 1,440 square feet.

Chapter 50, Zoning, Section 9D.(4) of the Code of the Town of Lancaster limits the area of an accessory structure to 750 square feet. The petitioner, therefore, requests a 690 square foot accessory use area variance.

The Clerk presented and entered into evidence the following items:

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

Copy of a letter notifying the Erie County Department of Environment and Planning of the time and place of this public hearing.

Copy of a letter notifying the Town of Elma of the time and place of this public hearing.

PERSONS ADDRESSING THE BOARD

Paul Safe, petitioner
3490 Bowen Road
Lancaster, New York 14086

Proponent

IN THE MATTER OF THE PETITION OF PAUL SAFE

THE FOLLOWING RESOLUTION WAS OFFERED
BY MR. THILL, WHO MOVED ITS
ADOPTION, SECONDED BY MR. ABRAHAM
TO WIT:

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Paul Safe and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 9th day of August 2007, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

WHEREAS, the applicant is the present owner of the premises in question.

WHEREAS, the property for which the applicant is petitioning is within an Agricultural Residential District, (A-R) as shown on the Zoning Map of the Town of Lancaster.

WHEREAS, the Erie County Department of Environment and Planning has received a full copy of proposed zoning action and has made no recommendation.

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That the benefit sought by the applicant cannot be achieved by some other method, feasible for the applicant to pursue, other than the area variance relief sought.

That the requested area variance relief is not substantial.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

NOW, THEREFORE, BE IT

RESOLVED that based upon these findings, the relief sought be and is hereby **GRANTED** subject to the following conditions which in the opinion of this board are appropriate conditions to minimize adverse effects on the character of the surrounding area and to safeguard the public health, safety, convenience and general welfare:

- that the existing structure be demolished
- that the vinyl siding on the proposed garage match the siding on the dwelling
- that the garage roof's shingles match that of the roof of the dwelling
- that no commercial enterprise, other than those permitted by Chapter 50 of the Code of the Town of Lancaster, be conducted on the premises

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. ABRAHAM	VOTED YES
MR. MARYNIEWSKI	WAS ABSENT
MR. PERRY	VOTED YES
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. LEHRBACH	VOTED YES

The resolution granting the variance was thereupon **ADOPTED**.

August 9, 2007

PETITION OF THOMAS A. BARBER:

THE 4th CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of Thomas A. Barber, 431 Erie Street, Lancaster, New York 14086 for two [2] variances for the purpose of constructing a 1,600 square foot pole barn on premises owned by the petitioner at 431 Erie Street, Lancaster New York, to wit:

- A. A variance from the requirements of Chapter 50, Zoning, Section 9D.(4) of the Code of the Town of Lancaster. The area of the proposed accessory structure is 1,600 square feet.

Chapter 50, Zoning, Section 9D.(4) of the Code of the Town of Lancaster limits the area of an accessory structure to 750 square feet. The petitioner, therefore, requests a 850 square foot accessory use area variance.

- B. A variance from the requirements of Chapter 50, Zoning, Section 9D.(2) of the Code of the Town of Lancaster. The height of the proposed pole barn is 19.5 feet.

Chapter 50, Zoning, Section 9D.(2) of the Code of the Town of Lancaster limits the height of accessory structures to sixteen [16] feet. The petitioner, therefore, requests a 3.5 foot height variance.

The Clerk presented and entered into evidence the following items:

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

Copy of a letter notifying the Erie County Department of Environment and Planning of the time and place of this public hearing.

Copy of a letter notifying Lancaster Rural Cemetery of the time and place of this public hearing.

PERSONS ADDRESSING THE BOARD

Thomas Barber, petitioner
431 Erie Street
Lancaster, New York 14086

Proponent

IN THE MATTER OF THE PETITION OF THOMAS A. BARBER

THE FOLLOWING RESOLUTION WAS OFFERED
BY MR. LEHRBACH, WHO MOVED ITS
ADOPTION, SECONDED BY MR. PERRY
TO WIT:

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Thomas A. Barber and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 9th day of August 2007, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

WHEREAS, the applicant is the present owner of the premises in question.

WHEREAS, the property for which the applicant is petitioning is within a Agricultural Residential District, (A-R) as shown on the Zoning Map of the Town of Lancaster.

WHEREAS, the Erie County Department of Environment and Planning commented on the proposed zoning action as follows:

"That the barn should be in character with the neighborhood and the cemetery especially color and style"

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That the benefit sought by the applicant cannot be achieved by some other method, feasible for the applicant to pursue, other than the area variance relief sought.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self created but not to the extent necessary to preclude the granting of the area variance relief sought.

That this board has taken into consideration the benefit to the applicant if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

NOW, THEREFORE, BE IT

RESOLVED that based upon these findings, the relief sought be and is hereby **GRANTED** -subject to the following conditions which in the opinion of this board are appropriate conditions to minimize adverse effects on the character of the surrounding area and to safeguard the public health, safety, convenience and general welfare:

- that the roof be a flat medium grey color to match the shingles of the house
- that no commercial enterprise, other than those permitted by Chapter 50 of the Code of the Town of Lancaster, be conducted on the premises

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. ABRAHAM	VOTED YES
MR. MARYNIEWSKI	WAS ABSENT
MR. PERRY	VOTED YES
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. LEHRBACH	VOTED YES

The resolution granting the variances was thereupon **ADOPTED**.

August 9, 2007

PETITION OF MARK AQUINO:

THE 5th CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of Mark Aquino, Esq., 32 Central Avenue, Lancaster, New York 14086 as designated representative of Ed Church, 5558 Broadway, Lancaster, New York 14086 for two variances for the purpose of constructing a seven unit apartment building on property owned by Ed Church which is located at 5849 Broadway, Lancaster, New York, to wit:

- A. A variance from the requirements of Chapter 50, Zoning, Section 13C.(2)(b) of the Code of the Town of Lancaster. The width of the subject lot is 115 feet.

Chapter 50, Zoning, Section 13C.(2)(b) of the Code of the Town of Lancaster requires a 150 foot lot width. The petitioner, therefore, requests a 35 foot lot width variance.

- B. A variance from the requirements of Chapter 50, Zoning, Section 14E.(1) of the Code of the Town of Lancaster. The proposed location of the apartment building will result in a 25 foot west side yard lot line set back.

Chapter 50, Zoning, Section 14E.(1) of the Code of the Town of Lancaster requires a 46 foot west side yard lot line set back. The petitioner, therefore, requests a 21 foot west side yard lot line set back variance.

The Clerk presented and entered into evidence the following items:

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

Copy of a letter notifying the Erie County Department of Environment and Planning of the time and place of this public hearing.

Copy of a letter notifying New York State Department of Transportation of the time and place of this public hearing.

PERSONS ADDRESSING THE BOARD

Daniel Baccari, Architect representing petitioner	Proponent
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Mark Aquino, Esq., representing petitioner	Proponent
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Adrienne Hydock, (Bell Tower) 3901 Bowen Road Lancaster, New York 14086	Questions
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Louise Gilano, (Bell Tower) 3901 Bowen Road Lancaster, New York 14086	Questions
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John Jankowski, (Bell Tower) 3901 Bowen Road Lancaster, New York 14086	Questions
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Stanley Blake, (Bell Tower) 3907 Bowen Road Lancaster, New York 14086	Opponent
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Catherine Lissfelt, (Bell Tower) 3909 Bowen Road Lancaster, New York 14086	Comments
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IN THE MATTER OF THE PETITION OF MARK AQUINO

THE FOLLOWING RESOLUTION WAS OFFERED
BY MR. THILL, WHO MOVED ITS
ADOPTION, SECONDED BY MR. SCHWAN
TO WIT:

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Mark Aquino and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 9th day of August 2007, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

WHEREAS, the applicant is the duly authorized agent of the owner or purchaser.

WHEREAS, the property for which the applicant is petitioning is within a General Business District, (GB), Multi-family Residential District 4, (MFR-4) as shown on the Zoning Map of the Town of Lancaster.

WHEREAS, the Erie County Department of Environment and Planning has received a full copy proposed zoning action and has made no recommendation.

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That the benefit sought by the applicant cannot be achieved by some other method, feasible for the applicant to pursue, other than the area variance relief sought.

That the requested area variance relief is not substantial.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self created but not to the extent necessary to preclude the granting of the area variance relief sought.

That this board has taken into consideration the benefit to the applicant if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

That within the intent and purposes of this ordinance the variance relief sought, if granted, is the minimum variance necessary to afford relief.

NOW, THEREFORE, BE IT

RESOLVED that based upon these findings, the relief sought be and is hereby **GRANTED** subject to the following conditions which in the opinion of this board are appropriate conditions to minimize adverse effects on the character of the surrounding area and to safeguard the public health, safety, convenience and general welfare:

- that the eastern property line is screened with fencing and arborvitae shrubs in accordance with any and all directives of the Town Board and Planning Board
- that screening of the site be provided to the residents of the Bell Tower complex which is located to the south of the proposed development in accordance with an agreement between the developer and the Bell Tower Homeowners' Association as it relates to the south side of the property

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. ABRAHAM	VOTED YES
MR. MARYNIEWSKI	WAS ABSENT
MR. PERRY	VOTED YES
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. LEHRBACH	VOTED YES

The resolution granting the variances was thereupon **ADOPTED**.

August 9, 2007

PETITION OF STEVEN PROWSE:

THE 6th CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of Steven Prowse, 531 Ransom Road, Lancaster, New York 14086 for one [1] variance for the purpose of constructing a 1,500 square foot pole barn on premises owned by the petitioner at 531 Ransom Road, Lancaster New York, to wit:

A variance from the requirements of Chapter 50, Zoning, Section 9D.(4) of the Code of the Town of Lancaster. The area of the proposed accessory structure is 1,500 square feet.

Chapter 50, Zoning, Section 9D.(4) of the Code of the Town of Lancaster limits the area of an accessory structure to 750 square feet. The petitioner, therefore, requests a 750 square foot accessory use area variance.

The Clerk presented and entered into evidence the following items:

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

Copy of a letter notifying the Erie County Department of Environment and Planning of the time and place of this public hearing.

PERSONS ADDRESSING THE BOARD

Steven Prowse, petitioner 531 Ransom Road Lancaster, New York 14086	Proponent
Edward Buszka 513 Ransom Road Lancaster, New York 14086	Opponent

IN THE MATTER OF THE PETITION OF STEVEN PROWSE

THE FOLLOWING RESOLUTION WAS OFFERED
BY MR. ABRAHAM, WHO MOVED ITS
ADOPTION, SECONDED BY MR. QUINN
TO WIT:

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Steven Prowse and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 9th day of August 2007, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

WHEREAS, the applicant is the present owner of the premises in question.

WHEREAS, the property for which the applicant is petitioning is within a Agricultural Residential District, (A-R) as shown on the Zoning Map of the Town of Lancaster.

WHEREAS, the Erie County Department of Environment and Planning has received a full copy of proposed zoning action and has made no recommendation.

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That the benefit sought by the applicant cannot be achieved by some other method, feasible for the applicant to pursue, other than the area variance relief sought.

That the requested area variance relief is not substantial.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self created but not to the extent necessary to preclude the granting of the area variance relief sought.

That this board has taken into consideration the benefit to the applicant if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

That within the intent and purposes of this ordinance the variance relief sought, if granted, is the minimum variance necessary to afford relief.

NOW, THEREFORE, BE IT

RESOLVED that based upon these findings, the relief sought be and is hereby **GRANTED** subject to the following conditions which in the opinion of this board are appropriate conditions to minimize adverse effects on the character of the surrounding area and to safeguard the public health, safety, convenience and general welfare:

- that no commercial enterprise, other than those permitted by Chapter 50 of the Code of the Town of Lancaster, be conducted on the premises
- that the roof and siding be of a material similar to that of the principle residence

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. ABRAHAM	VOTED YES
MR. MARYNIEWSKI	WAS ABSENT
MR. PERRY	VOTED YES
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. LEHRBACH	VOTED YES

The resolution granting the variance was thereupon **ADOPTED**.

August 9, 2007

PETITION OF JAMES A. & KAREN J. SMITH:

THE 7th CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of James A. and Karen J. Smith, 565 Ransom Road, Lancaster, New York 14086 for two [2] variances for the purpose of constructing a 1,200 square foot pole barn on premises owned by the petitioners at 565 Ransom Road, Lancaster New York, to wit:

- A. A variance from the requirements of Chapter 50, Zoning, Section 9D.(4) of the Code of the Town of Lancaster. The area of the proposed accessory structure is 1,200 square feet.

Chapter 50, Zoning, Section 9D.(4) of the Code of the Town of Lancaster limits the area of an accessory structure to 750 square feet. The petitioners, therefore, request a 450 square foot accessory use area variance.

- B. A variance from the requirements of Chapter 50, Zoning, Section 9D.(2) of the Code of the Town of Lancaster. The height of the proposed pole barn is seventeen feet.

Chapter 50, Zoning, Section 9D.(2) of the Code of the Town of Lancaster limits the height of accessory structures to sixteen [16] feet. The petitioners, therefore, request a one foot height variance.

The Clerk presented and entered into evidence the following items:

Duly executed petition of the applicants with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioners of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

Copy of a letter notifying the Erie County Department of Environment and Planning of the time and place of this public hearing.

PERSONS ADDRESSING THE BOARD

James Smith, petitioner
565 Ransom Road
Lancaster, New York 14086

Proponent

IN THE MATTER OF THE PETITION OF JAMES A. & KAREN J. SMITH

THE FOLLOWING RESOLUTION WAS OFFERED
BY MR. LEHRBACH, WHO MOVED ITS
ADOPTION, SECONDED BY MR. PERRY
TO WIT:

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of James A. and Karen J. Smith and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 9th day of August 2007, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

WHEREAS, the applicants are the present owners of the premises in question.

WHEREAS, the property for which the applicants are petitioning is within a Agricultural Residential District, (A-R) as shown on the Zoning Map of the Town of Lancaster.

WHEREAS, the Erie County Department of Environment and Planning has received a full copy of proposed zoning action and has made no recommendation.

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That the benefit sought by the applicants cannot be achieved by some other method, feasible for the applicants to pursue, other than the area variance relief sought.

That the requested area variance relief is not substantial.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self created but not to the extent necessary to preclude the granting of the area variance relief sought.

That this board has taken into consideration the benefit to the applicants if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

That within the intent and purposes of this ordinance the variance relief sought, if granted, is the minimum variance necessary to afford relief.

NOW, THEREFORE, BE IT

RESOLVED that based upon these findings, the relief sought be and is hereby **GRANTED** subject to the following conditions which in the opinion of this board are appropriate conditions to minimize adverse effects on the character of the surrounding area and to safeguard the public health, safety, convenience and general welfare:

- that the color of the roof shall be zinc-grey
- that the color of the side walls shall be zinc-grey
- that no commercial enterprise, other than those permitted by Chapter 50 of the Code of the Town of Lancaster, be conducted on the premises

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. ABRAHAM	VOTED YES
MR. MARYNIEWSKI	WAS ABSENT
MR. PERRY	VOTED YES
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. LEHRBACH	VOTED YES

The resolution granting the variances was thereupon **ADOPTED**.

August 9, 2007

PETITION OF DOUGLAS & AMY BEETOW:

THE 8th CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of Douglas and Amy Beetow, 30 Sawgrass Lane Lancaster, New York 14086 for one [1] variance for the purpose of erecting a 4 ½ foot high fence in a required open space area on premises owned by the petitioners at 30 Sawgrass Lane, Lancaster, New York, to wit:

A variance from the requirements of Chapter 50, Zoning, Section 35C. of the Code of the Town of Lancaster. The premises upon which this variance is sought is a corner lot fronting on Sawgrass Lane with an exterior side yard [considered a front yard equivalent] fronting on Muirfield Lane. The petitioners propose to erect a 4 ½ foot high fence within the required open space area of the exterior side yard fronting on Muirfield Lane.

Chapter 50, Zoning, Section 35C. of the Code of the Town of Lancaster limits the height of a fence or wall extending into a front yard or an exterior side yard [considered a front yard equivalent] to three [3] feet in height. The petitioners, therefore, request a 1 ½ foot fence height variance.

The Clerk presented and entered into evidence the following items:

Duly executed petition of the applicants with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioners of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

PERSONS ADDRESSING THE BOARD

Amy Beetow, petitioner 30 Sawgrass Lane Lancaster, New York 14086	Proponent
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Douglas Beetow, petitioner 30 Sawgrass Lane Lancaster, New York 14086	Proponent
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IN THE MATTER OF THE PETITION OF DOUGLAS & AMY BEETOW

THE FOLLOWING RESOLUTION WAS OFFERED
BY MR. QUINN WHO MOVED ITS
ADOPTION, SECONDED BY MR. SCHWAN
TO WIT:

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Douglas and Amy Beetow and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 9th day of August 2007, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

WHEREAS, the applicants are the present owners of the premises in question.

WHEREAS, the property for which the applicants are petitioning is within a Residential District 1, (R-1) as shown on the Zoning Map of the Town of Lancaster.

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That the benefit sought by the applicants cannot be achieved by some other method, feasible for the applicants to pursue, other than the area variance relief sought.

That the requested area variance relief is not substantial.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self created but not to the extent necessary to preclude the granting of the area variance relief sought.

That this board has taken into consideration the benefit to the applicants if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

That within the intent and purposes of this ordinance the variance relief sought, if granted, is the minimum variance necessary to afford relief.

That such fence will not unduly shut out light or air to adjoining properties.

That such fence will not create a fire hazard by reason of its construction or location.

NOW, THEREFORE, BE IT

RESOLVED that based upon these findings, the relief sought be and is hereby **GRANTED** subject to the following conditions which in the opinion of this board are appropriate conditions to minimize adverse effects on the character of the surrounding area and to safeguard the public health, safety, convenience and general welfare:

- that the variance relief granted here is specifically granted for an open balustrade fence that allows air and light to pass between the vertical balustrades
- any repair or replacement of the fence for which this variance is granted cannot diminish the open space area between the balustrades and reduce the amount of air and light that passes between the balustrades
- set four feet [4'] in from property line on north side

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. ABRAHAM	VOTED YES
MR. MARYNIEWSKI	WAS ABSENT
MR. PERRY	VOTED YES
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. LEHRBACH	VOTED YES

The resolution granting the variance was thereupon **ADOPTED**.

August 9, 2007

PETITION OF SHAWN KNOOP:

THE 9th CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of Shawn Knoop, 34 Hemlock Lane, Lancaster, New York 14086 for one [1] variance for the purpose of erecting a four [4] foot high fence in a required open space area on premises owned by the petitioner at 34 Hemlock Lane, Lancaster, New York, to wit:

A variance from the requirements of Chapter 50, Zoning, Section 35C. of the Code of the Town of Lancaster. The premises upon which this variance is sought is an irregularly shaped lot fronting on Hemlock Lane with exterior side and rear yards [considered front yard equivalents] fronting on Cardinal Court. The petitioner proposes to erect a four [4] foot high fence within the required open space area of the exterior side and rear yards fronting on Cardinal Court.

Chapter 50, Zoning, Section 35C. of the Code of the Town of Lancaster limits the height of a fence or wall extending into a front yard or exterior side and rear yards [considered front yard equivalents] to three [3] feet in height. The petitioner, therefore, requests a one [1] foot fence height variance.

The Clerk presented and entered into evidence the following items:

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

PERSONS ADDRESSING THE BOARD

Shawn Knoop, petitioner
34 Hemlock Lane
Lancaster, New York 14086

Proponent

IN THE MATTER OF THE PETITION OF SHAWN KNOOP

THE FOLLOWING RESOLUTION WAS OFFERED
BY MR. LEHRBACH, WHO MOVED ITS
ADOPTION, SECONDED BY MR. PERRY
TO WIT:

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Shawn Knoop and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 9th day of August 2007, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

WHEREAS, the applicant is the present owner of the premises in question.

WHEREAS, the property for which the applicant is petitioning is within a Residential District 1, (R-1) as shown on the Zoning Map of the Town of Lancaster.

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought; there are other fences within the neighborhood.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That the benefit sought by the applicant cannot be achieved by some other method, feasible for the applicant to pursue, other than the area variance relief sought; a three foot fence would not be adequate for his needs.

That the requested area variance relief is not substantial.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self created but not to the extent necessary to preclude the granting of the area variance relief sought.

That this board has taken into consideration the benefit to the applicant if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

That within the intent and purposes of this ordinance the variance relief sought, if granted, is the minimum variance necessary to afford relief.

That such fence will not unduly shut out light or air to adjoining properties.

That such fence will not create a fire hazard by reason of its construction or location.

NOW, THEREFORE, BE IT

RESOLVED that based upon these findings, the relief sought be and is hereby **GRANTED** subject to the following conditions which in the opinion of this board are appropriate conditions to minimize adverse effects on the character of the surrounding area and to safeguard the public health, safety, convenience and general welfare:

- that there will be an angle on the northeast corner of the fence which will provide that the fence commence twelve [12] feet inside the sidewalk and a matching angle on the east side of the fence
- that the fence will be a minimum of two [2] feet inside of the sidewalk
- that the variance relief granted here is specifically granted for an open balustrade fence that allows air and light to pass between the vertical balustrades
- any repair or replacement of the fence for which this variance is granted cannot diminish the open space area between the balustrades and reduce the amount of air and light that passes between the balustrades

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. ABRAHAM	VOTED YES
MR. MARYNIEWSKI	WAS ABSENT
MR. PERRY	VOTED YES
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. LEHRBACH	VOTED YES

The resolution granting the variance was thereupon **ADOPTED**.

August 9, 2007

ON MOTION DULY MADE, SECONDED AND CARRIED, the meeting was adjourned at 10:53 P.M.

Signed _____
Johanna M. Coleman, Town Clerk and
Clerk, Zoning Board of Appeals
Dated: August 9, 2007

